

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FORTUNA GEBRU FKADU,

Plaintiff,

v.

KIDANE TEFAY,

Defendant.

CASE NO. 2:21-cv-00318-LK

ORDER OF DISMISSAL

This matter comes before the Court on Plaintiff Fortuna Gebru Fkadu's motion for voluntary dismissal with prejudice under Federal Rule of Civil Procedure 41(a)(2). Dkt. No. 48. Pro se Defendant Kidane Tesfay does not oppose the dismissal, but asks the Court for "legal fees, reimbursement for [his] time and other damages" in his response. Dkt. No. 49 at 4.

Pursuant to Federal Rule of Civil Procedure 41(a)(2), once an opposing party files an answer (as Tesfay has done here, Dkt. No. 7), an action may be dismissed at the plaintiff's request "only by court order, on terms that the court considers proper." The Ninth Circuit has explained that a court should grant a motion for voluntary dismissal "unless a defendant can show that it will suffer some plain legal prejudice as a result." *Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001).

1 “[L]egal prejudice’ means ‘prejudice to some legal interest, some legal claim, [or] some legal
2 argument.’” *Id.* at 976 (quoting *Westlands Water Dist. v. United States*, 100 F.3d 94, 97 (9th Cir.
3 1996)).

4 Dismissal is appropriate here because Tesfay does not oppose it and has not argued that he
5 would suffer any legal prejudice as a result. Although Tesfay asks the Court for “legal fees,
6 reimbursement for [his] time and other damages” in his response, Dkt. No. 49 at 4, he does not
7 identify any authority that would warrant an award of attorney’s fees or any other damages here.
8 In fact, the Supreme Court has held that a pro se litigant “is *not* entitled to attorney’s fees.” *Kay v.*
9 *Ehrler*, 499 U.S. 432, 435 (1991) (emphasis in original).

10 Although Tesfay takes issue with “the reasoning behind the voluntary dismissal,” he does
11 not oppose the dismissal itself. Dkt. No. 49 at 1.

12 Accordingly, the Court DISMISSES the complaint with prejudice in accordance with
13 Federal Rule of Civil Procedure 41(a)(2). The Clerk is DIRECTED to send uncertified copies of
14 this Order to all counsel of record and to Tesfay at his last known address.

15 Dated this 19th day of October, 2022.

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17 Lauren King
18 United States District Judge
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